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EXAMINER

BROUSSARD, COREY M

ART UNIT

PAPER NUMBER

2835

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/091,695 | Applicant(s) BOTTOM ET AL. | |
| | Examiner Corey M. Broussard | Art Unit 2835 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/02, 8/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The claims are objected to because of the following informalities: The word --removably-- is misspelled throughout the claims as "removeably". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 1, 8, 12, 16, 19, and 22, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.
4. Regarding claims 6 and 15, said claims recite the limitation "storage medium device" in line 1. There is insufficient antecedent basis for this limitation in the claim.
5. Claims 5, 10, 14, 18, 20, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 5, 14, and 20, said claims use the word "CompactPCI". CompactPCI is a technical standard and is

subject to change; therefore its presence renders the claim indefinite. Regarding claims 10, 18, and 27, said claims recite the word "Ethernet"; which is a technical standard (IEEE 802.3) and therefore renders the claim indefinite.

Double Patenting

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. Claims 4, 13, and 19 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 4, 13, 14, 20, and 21 of prior U.S. Patent No. 6,950,895. This is a double patenting rejection. A blade inserted into an interface is inherently at least removably connectable to said interface. Also a server blade when connected to the midplane would inherently be able to communicate and therefore monitor other server blades connected to the same midplane. Thus, claims 4, 13, and 19 are identical in scope to claims 1, 4, 13, 14, 20, and 21 of US 6,950,895.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-27 as best as they can be understood are rejected under 35

U.S.C. 102(e) as being anticipated by Jackson et al. (PN 6,452,809). With respect to claim 1, Jackson teaches a midplane having a system management bus and a plurality of blade interfaces on the midplane, wherein the blade interfaces are in electrical communication with each other (col 4, 48-53); a server blade (132) removably connectable to one of the plurality of blade connectable to one of the plurality of blade interfaces on the midplane (col 4, 43-48), the server blade having a server blade system management bus in electrical communication with the system management bus of the midplane, and a network interface to connect to a network (col 5, 1-4); and a plurality of switch blades (132)-removably and simultaneously connectable to one of the plurality of blade interfaces on the midplane, the switch blades being adapted to perform network switching (col 5, 1-4, col 7, 19-26).

10. With respect to claim 2, Jackson teaches a power supply module (144) removably connectable to the midplane to provide power to the modular server system (col 8, 12-17).

11. With respect to claim 3, Jackson teaches a cooling fan module (140) coupled to the modular server system to cool the modular server system (col 7, 66-2).

12. With respect to claim 7, Jackson teaches a chassis (110) to house the midplane, the server blade, and the media blade (col 7, 16-65).

13. With respect to claim 11, Jackson teaches wherein the media device is selected from the group consisting of a storage medium device, a graphics processing device, an audio processing device, and a streaming media processing device (the media device is a storage medium device, see col 5, 1-4, col 7, 19-26).

14. With respect to claim 12, Jackson teaches a midplane having a system management bus, a first side, a second side, and a plurality of blade interfaces on the first side and the second side, wherein the blade interfaces on the first side are in electrical communication with the blade interfaces on the second side; a plurality of server blades each removably connectable to one of the plurality of blade interfaces on the first side of the midplane, the server blades each having a server blade system management bus in electrical communication with the system management bus of the midplane (col 4, 48-53, col 5, 27-33), and a network interface to connect to a network; a plurality of switch blades removably and simultaneously connectable to one of the plurality of blade interfaces on the midplane, the switch blades being adapted to perform network switching between any number of the server blades installed in the system, and between any of the server blades and an external network (col 5, 1-4, col 7, 19-26); a power supply module (144) removably connectable to the midplane to provide power to the modular server system (col 5, 47-48); a cooling fan module (140) coupled to the modular server system to cool the modular server system (col 5, 48-50); and a chassis

(110) to house the midplane, the server blades, the media blades, the power supply module, and the cooling fan module.

15. With respect to claims 4 and 13, Jackson teaches wherein a plurality of media blades each removably connectable to one of the plurality of blade interfaces on the second side of the midplane, the media blades each having at least one storage medium device (col 5, 1-4, col 7, 19-26).

16. With respect to claim 19, Jackson teaches a midplane having a system management bus, a first side, a second side, and a plurality of blade interfaces on the first side and the second side, wherein the blade interfaces on the first side are in electrical communication with the blade interfaces on the second side; a server blade removably connectable to one of the plurality of blade interfaces on the first side of the midplane, the server blade having a server blade system management bus in electrical communication with the system management bus of the midplane (col 4, 48-53, col 5, 27-33), and a network interface to connect to a network (col 5, 1-4, col 7, 19-26); a media blade removably connectable to one of the plurality of blade interfaces on the second side of the midplane, the media blade having at least one storage medium device (col 5, 1-4, col 7, 19-26); a second server blade removably connectable to one of the plurality of blade interfaces on the first side of the midplane, the second server blade having a second server blade system management bus in electrical communication with the system management bus of the midplane, and a second network interface to connect to the network; a second media blade removably connectable to one of the plurality of blade interfaces on the second side of the midplane, the second media blade

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having at least one second storage medium device; least two switch blades, both removably and simultaneously connectable to one blade interface on the midplane and adapted to perform network switching between any number of the server blades installed in the system, and between any of the server blades and an external network (the reference teaches multiple devices that work independently or in concert); a power supply module (144) removably connectable to the midplane to provide power to the modular server system; a cooling fan module (140) coupled to the modular server system to cool the modular server system; and a chassis (110) to house the midplane, the server blade, the media blade, the second server blade, the second media blade, the switch blades, the power supply module, and the cooling fan module, wherein the server blade, the media blade, the second server blade, the second media blade and the switch blades share power from the power supply module and share cooling from the cooling fan module.

17. With respect to claims 5, 14, and 20, Jackson teaches wherein the midplane is a CompactPCI form factor (col 4, 58-62).

18. With respect to claims 6, 15, and 21, Jackson teaches wherein the storage medium devices are hard disk drives (col 5, 1-4).

19. With respect to claims 8, 16, and 22, Jackson teaches wherein the server blades and the media blades are adapted to be hot swapped (col 5, 18-20).

20. With respect to claims 9, 17, 23, 24, 25, and 26, Jackson teaches wherein the server blades and media blades are operable to be used as single or multiple server

systems (see col 5, 33-53, the scalable dynamic system can utilize any number of server blades and storage media as a plurality of server systems).

21. With respect to claims 10, 18, and 27, Jackson teaches wherein the network interfaces are ethernet connector (col 7, 26-27).

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gallagher et al. (PN 6,157,534) and Hobbs et al. (PN 5,684,671) demonstrating stackable server module chassis designs. Liu (PN 6,166,902) demonstrating blade-type CompactPCI computer modules.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey M. Broussard whose telephone number is 571 272 2799. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 571 272 2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**ANATOLY VORTMAN
PRIMARY EXAMINER**